

ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED**MAR - 2 1999**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Amendment of Parts 2 and 25 of
the Commission's Rules to Permit
Operation of NGSO FSS Systems
Co-Frequency with GSO and
Terrestrial Systems in the Ku-
Band Frequency Range)

and)

Amendment of the Commission's
Rules to Authorize Subsidiary
Terrestrial Use of the 12.2-12.7 GHz
Band by Direct Broadcast Satellite
Licensees and Their
Affiliates)

ET Docket No. 98-206

RM-9147

RM-9245

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters¹ hereby submits brief
comments responding to that part of the Commission's Notice of Proposed
Rulemaking² in the above-referenced docket seeking comment on the petition
of Northpoint Technology.³ The Northpoint Technology petition requests

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¹ NAB is a nonprofit, incorporated association of radio and television
broadcast stations and networks. NAB serves and represents America's radio
and television stations and all the major networks.

² *Notice of Proposed Rule Making*, ET Docket No. 98-206, RM-9147, RM-9245,
November 19, 1998.

³ *Northpoint Technology Petition for Rule Making*, RM-9245, March 6, 1998.

shared use of the 12.2-12.7 GHz band to provide terrestrial retransmission of local television signals and provision of one-way data services.

In its Notice the Commission requests comment on a number of spectrum sharing and technical issues raised by the Northpoint proposal, specifically the technical feasibility of a Northpoint-type terrestrial service sharing this frequency band with the DBS service Northpoint seeks to supplement. NAB expresses no views on the technical questions here at issue, but rather files in support of the service goal of the Northpoint proposal, *i.e.*, broader access of local audiences to local broadcast signals and provision of more effective competition to local cable monopolies.

To those ends, Northpoint proposes use of innovative technology to retransmit terrestrially the signals of local television stations in the frequency band used by DBS to (primarily but not exclusively) DBS subscribers. The service concept is to supply the missing critical component – local television signals – for DBS service to be truly competitive with cable.

Broadcasters have a record of supporting measures to bring competition to local cable monopolies. Broadcasters were among the strongest proponents of the 1992 Cable Act,⁴ which included the must carry law designed to prevent misuse of cable's gatekeeper facilities and the program access provisions that have made the satellite industry and other new multi-channel video distributors viable. Broadcasters also supported the

⁴ 47 USCA §§ 521 *et seq.*

Open Video Systems provisions of the 1996 Telecommunications Act⁵ that provided a path for telephone companies and other local operators to provide competition to cable systems. Recognizing the importance of free, local broadcasting, Congress required these new OVS operators to comply with the must carry and retransmission consent rules which apply to cable systems.⁶ Here Northpoint vows adherence to those same rules and, on this basis, NAB supports Northpoint's service proposal.

NAB believes that satellite service supplemented with all local broadcast signals can be an effective competitor to cable and help to keep cable's ever-spiraling rate increases in check. We have supported, therefore, the adoption of provisions authorizing local-to-local satellite service by which satellite operators would be able to offer program line-ups that are fully competitive with cable. Similarly, we here support the Northpoint petition.

The desire to promote competition for cable, however, should not lead Congress or the FCC to abandon the fundamental commitment to the local broadcasting system. Thus, satellite operators offering local signals or local re-transmitters like those proposed by Northpoint should be subject to must carry and retransmission consent.⁷

⁵ 47 USCA §§ 251 et seq.

⁶ 47 USCA § 573(b).

⁷ For satellite service legislation broadcasters have agreed that – because of short-term capacity limitations – full must carry obligations can be phased-in. Northpoint service, on the other hand, being local in nature and with plenty of capacity, must be required to adhere immediately and fully to the must carry and retransmission consent rules.

Northpoint-like service in the DBS band should also be required to carry *both* the NTSC and the DTV signals of all local broadcasters during the DTV transition. Northpoint will have ample channels to accomplish dual NTSC/DTV carriage during the transition. This will help promote and preserve free, local television service and advance the DTV transition, goals of both Congress and the Commission,⁸ while creating real competition for local cable monopolies. Northpoint retransmission of local DTV signals must include, as NAB has urged with regard to cable must carry of DTV signals, carriage of the entire 6 MHz DTV signal without material degradation and in accordance with other must carry-related requirements, such as tier and channel positioning, as well as with program exclusivity requirements.

So equipped with local signals and offered as a supplement to DBS service, Northpoint indeed could offer potent competition to cable. It would thus also afford all DBS subscribers valued broadcast network programming in a manner that respects network-affiliate contractual relationships and comports with the Satellite Home Viewing Act. It would enable broader penetration of local broadcast service and help speed the DTV transition.

For all these reasons, NAB lends its support to the proposal of Northpoint Technology. It does so, however, under the condition that any Northpoint-like service is required to re-transmit all local television signals,

⁸ See Comments of the National Association of Broadcasters, CS Docket 98-120, Oct. 13, 1998 and Reply Comments of the National Association of Broadcasters, CS Docket 98-120, Dec. 22, 1998.

including all NTSC and DTV signals, without material degradation and in full compliance with all must-carry-related rules and with program exclusivity protections, such as network non-duplication, syndicated exclusivity and sports blackout requirements.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Valerie Schulte", with a long horizontal flourish extending to the right.

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